



OHMVR COMMISSION MEETING Victorville, CA92392

May 2, 2014

STAFF REPORT: Legislative Update

STAFF: Tina L. Williams, Superintendent of Public Relations
and Communications

SUBJECT: Legislation

Summary

This report provides summary excerpts and status of bills that may affect the Off-Highway Motor Vehicle Recreation (OHMVR) Program. Information contained in this report is accurate as of April 14, 2014. Changes in status of some bills, or introduction of new bills, may occur between the date this report was prepared and the Commission meeting date.

Discussion

CALIFORNIA LEGISLATION

Senate Bill 1289 (Fuller) Off-Highway Motor Vehicle Recreation Land Transfer

Summary: Notwithstanding any other law, the State Lands Commission may transfer to the Division of Off-Highway Motor Vehicle Recreation certain parcels of land owned by the state that are adjacent to the Johnson Valley Off-Highway Vehicle Recreation Area for off-highway motor vehicle recreation.

Status: Active - 04/29/2014 – Set for hearing Senate Natural Resources and Water Committee.

Senate Bill 1450 (Fuller): Off-Highway Motor Vehicle Recreation

Summary: The Off-Highway Motor Vehicle Recreation Act of 2003 provides for the acquisition, operation, and funding of state off-highway vehicular recreation areas and trails, and makes various legislative findings and declarations regarding the benefits of off-highway motor vehicle recreation, and the need to effectively protect and efficiently manage off-highway motor vehicle recreation areas. This bill would make nonsubstantive changes in those legislative findings and declarations.

Status: Active – 3/17/2014 – Referred to the Senate Rules Committee.

Assembly Bill 1835 (Olsen) Helmet Exemption: Recreational Off-Highway Vehicles

Summary: This bill would exempt an operator or passenger of a recreational off-highway vehicle from the requirement to wear a safety helmet if the person is 18 years of age or older, the recreational off-highway vehicle has been equipped with a rollbar by the manufacturer, the person is seated in a seat that has been installed by the manufacturer, and the person is wearing a seat belt.

Status: Active – 4/28/2014 –Set for hearing Assembly Transportation Committee.

FEDERAL LEGISLATION**U S Congress House of Representatives 1776 (Rep Farr) Clear Creek National Recreation Area and Conservation Act**

Summary: Clear Creek National Recreation Area and Conservation Act – Establishes the Clear Creek National Recreation Area in California to promote environmentally responsible high-quality motorized and non-motorized trail based recreation, including off-highway vehicle use, scenic touring, and access for hunting and gem collecting, while protecting landscape resources.

Status: Active- Latest Major Action: 5/3/2013 Referred to the Subcommittee on Public Lands and Environmental Regulation. Bill was introduced on 4/26/2013.

Commission Action

For information only

Attachments

SB 1289; SB 1450; AB 1835 and H.R. 1776

Introduced by Senator Fuller

February 21, 2014

An act to add Section 5090.42 to the Public Resources Code, relating to off-highway motor vehicle recreation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1289, as introduced, Fuller. Off-highway motor vehicle recreation: land transfer.

The Off-Highway Motor Vehicle Recreation Act of 2003 provides for the acquisition, operation, and funding of state vehicular recreation areas and trails within the state park system, and establishes the Division of Off-Highway Motor Vehicle Recreation in the Department of Parks and Recreation. The act imposes certain duties and responsibilities on the division with respect to off-highway motor vehicle recreation. Existing law also vests with the State Lands Commission control over the disposition, management, and control of specified state lands.

This bill would authorize the State Lands Commission to transfer to the department certain parcels of land owned by the state that are adjacent to the Johnson Valley Off-Highway Vehicle Recreation Area, described as _____, for use for off-highway vehicle recreation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5090.42 is added to the Public Resources
- 2 Code, to read:

1 5090.42. Notwithstanding any other law, the State Lands
2 Commission may transfer to the department certain parcels of land
3 owned by the state that are adjacent to the Johnson Valley
4 Off-Highway Vehicle Recreation Area, as _____,
5 for use for off-highway motor vehicle recreation.

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Introduced by Senator FullerFebruary 21, 2014

An act to amend Section 5090.02 of the Public Resources Code, relating to off-highway motor vehicle recreation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1450, as introduced, Fuller. Off-highway motor vehicle recreation.

The Off-Highway Motor Vehicle Recreation Act of 2003 provides for the acquisition, operation, and funding of state off-highway vehicular recreation areas and trails, and makes various legislative findings and declarations regarding the benefits of off-highway motor vehicle recreation, and the need to effectively protect and efficiently manage off-highway motor vehicle recreation areas.

This bill would make nonsubstantive changes in those legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5090.02 of the Public Resources Code
- 2 is amended to read:
- 3 5090.02. (a) The Legislature finds all of the following:
- 4 (1) Off-highway motor vehicles are enjoying an ever-increasing
- 5 popularity in California.
- 6 (2) Off-highway recreation includes both motorized recreation
- 7 and motorized off-highway access to nonmotorized recreation
- 8 activities.

1 (3) The indiscriminate and uncontrolled use of those vehicles
2 may have a deleterious impact on the environment, wildlife
3 habitats, native wildlife, and native flora.

4 (b) The Legislature hereby declares that effectively managed
5 areas and adequate facilities for the use of off-highway vehicles
6 and conservation and enforcement are—~~essential~~ *critical* for
7 ecologically balanced recreation.

8 (c) Accordingly, it is the intent of the Legislature that:

9 (1) Existing off-highway motor vehicle recreational areas,
10 facilities, and opportunities should be expanded and managed in
11 a manner consistent with this chapter, in particular to maintain
12 sustained long-term use.

13 (2) New off-highway motor vehicle recreational areas, facilities,
14 and opportunities should be provided and managed pursuant to
15 this chapter in a manner that will sustain long-term use.

16 (3) The department should support both motorized recreation
17 and motorized off-highway access to nonmotorized recreation.

18 (4) When areas or trails or portions ~~thereof~~ *of off-highway motor*
19 *vehicle areas* cannot be maintained to appropriate established
20 standards for sustained long-term use, they should be closed to
21 use and repaired, to prevent accelerated erosion. Those areas should
22 remain closed until they can be managed within the soil
23 conservation standard or should be closed and restored.

24 (5) Prompt and effective implementation of the Off-Highway
25 Motor Vehicle Recreation Program by the department and the
26 Division of Off-Highway Motor Vehicle Recreation should have
27 an equal priority among other programs in the department.

28 (6) Off-highway motor vehicle recreation should be managed
29 in accordance with this chapter through financial assistance to
30 local governments and joint undertakings with agencies of the
31 United States and with federally recognized Native American
32 tribes.

ASSEMBLY BILL

No. 1835

Introduced by Assembly Member Olsen

February 18, 2014

An act to amend Section 38601 of the Vehicle Code, relating to recreational off-highway vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1835, as introduced, Olsen. Recreational off-highway vehicles: helmets: exemption.

Existing law prohibits a person from operating, or allowing a passenger in, a recreational off-highway vehicle unless the person and the passenger are wearing safety helmets, as specified.

This bill would exempt an operator or passenger of a recreational off-highway vehicle from the requirement to wear a safety helmet if the person is 18 years of age or older, the recreational off-highway vehicle has been equipped with a rollbar by the manufacturer, the person is seated in a seat that has been installed by the manufacturer, and the person is wearing a seat belt.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 38601 of the Vehicle Code is amended
- 2 to read:
- 3 38601. ~~A~~(a) *Except as provided in subdivision (b), a person*
- 4 *shall not operate, or allow a passenger in, a recreational*
- 5 *off-highway vehicle unless the person and the passenger are*

- 1 wearing safety helmets meeting the requirements established for
2 motorcycles and motorized bicycles pursuant to Section 27802.
3 *(b) An operator or passenger of a recreational off-highway*
4 *vehicle is not required to wear a safety helmet pursuant to*
5 *subdivision (a) if all of the following apply:*
6 *(1) The person is 18 years of age or older.*
7 *(2) The recreational off-highway vehicle has been equipped*
8 *with a rollbar by the manufacturer.*
9 *(3) The person is seated in a seat that has been installed by the*
10 *manufacturer for the purpose of seating the operator or passenger*
11 *of the recreational off-highway vehicle.*
12 *(4) The person is wearing a seat belt.*

113TH CONGRESS
1ST SESSION

H. R. 1776

To establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, to designate the Joaquin Rocks Wilderness in such counties, to designate additional components of the national wild and scenic rivers system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2013

Mr. FARR (for himself, Mr. VALADAO, and Mr. DENHAM) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, to designate the Joaquin Rocks Wilderness in such counties, to designate additional components of the national wild and scenic rivers system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clear Creek National
5 Recreation Area and Conservation Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) MANAGEMENT PLAN.—The term “manage-
2 ment plan” means the Plan for the Recreation Area
3 prepared under section 4(c).

4 (2) RECREATION AREA.—The term “Recreation
5 Area” means the Clear Creek National Recreation
6 Area.

7 (3) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

9 (4) STATE.—The term “State” means the State
10 of California.

11 **SEC. 3. ESTABLISHMENT OF CLEAR CREEK NATIONAL**
12 **RECREATION AREA.**

13 (a) IN GENERAL.—To promote environmentally re-
14 sponsible high-quality motorized and non-motorized trail
15 based recreation, including off-highway vehicle use, scenic
16 touring, access for hunting and gem collecting, while pro-
17 tecting ecological, geological, scenic, cultural, and historic
18 resources, fish and wildlife values, and other resources of
19 the landscape, there is established the Clear Creek Na-
20 tional Recreation Area in the State, to be managed by the
21 Secretary.

22 (b) BOUNDARIES.—The Recreation Area shall consist
23 of approximately 75,000 acres of Federal land in San Be-
24 nito County and Fresno County, California, as generally

1 depicted on the map entitled “Clear Creek National Recre-
2 ation Area” and dated July 30, 2012.

3 (c) MAP.—

4 (1) IN GENERAL.—As soon as practicable, after
5 the date of the enactment of this Act, the Secretary
6 shall submit a map and legal description of the
7 Recreation Area to—

8 (A) the Committee on Natural Resources
9 of the House of Representatives; and

10 (B) the Committee on Energy and Natural
11 Resources of the Senate.

12 (2) AVAILABILITY.—Copies of the map sub-
13 mitted under paragraph (1) shall be on file and
14 available for public inspection in—

15 (A) the Office of the Director of the Bu-
16 reau of Land Management; and

17 (B) the appropriate office of the Bureau of
18 Land Management in California.

19 **SEC. 4. MANAGEMENT.**

20 (a) IN GENERAL.—The Secretary shall manage the
21 Recreation Area to further the purposes described in sec-
22 tion 3(a), in accordance with—

23 (1) this Act;

24 (2) the Federal Land Policy and Management
25 Act of 1976 (43 U.S.C. 1701 et seq.); and

1 (3) any other applicable law.

2 (b) USES.—The Secretary shall—

3 (1) allow hiking, camping, hunting, gem col-
4 lecting, and sightseeing and the use of motorized ve-
5 hicles, mountain bikes, and horses on designated
6 roads, trails, and areas;

7 (2) issue special recreation permits for motor-
8 ized and non-motorized events; and

9 (3) reopen the Clear Creek Management Area
10 to the uses described in this subsection as soon as
11 practicable following the enactment of this Act and
12 in accordance with the management guidelines out-
13 lined in this Act and other applicable law.

14 (c) INTERIM MANAGEMENT PLAN.—The Secretary
15 shall use the 2005 Clear Creek Management Area Travel
16 Management Plan as modified by this Act, or by the Sec-
17 retary to incorporate natural resource protection informa-
18 tion not available in 2005, as the basis of an interim man-
19 agement plan to govern motorized recreation within the
20 Recreation Area pending the completion of the long-term
21 management plan required in subsection (d).

22 (d) PERMANENT MANAGEMENT PLAN.—Not later
23 than 2 years after the date of the enactment of this Act,
24 the Secretary shall create a comprehensive management
25 plan for the Clear Creek Recreation Area that—

1 (1) shall describe the appropriate uses and
2 management of the Recreation Area in accordance
3 with this Act;

4 (2) shall be prepared in consultation with—

5 (A) appropriate Federal, State, and local
6 agencies (including San Benito, Monterey, and
7 Fresno Counties);

8 (B) adjacent land owners; and

9 (C) other stakeholders (including conserva-
10 tion and recreational organizations);

11 (3) shall include a hazards education program
12 to inform people entering the Recreation Area of the
13 asbestos related risks associated with various activi-
14 ties within the Recreation Area, including, but not
15 limited to, off-highway vehicle recreation;

16 (4) shall include a user fee program for motor-
17 ized vehicle use within the Recreational Area and
18 guidelines for the use of the funds collected for the
19 management and improvement of the Recreation
20 Area;

21 (5) may incorporate any appropriate decisions,
22 as determined by the Secretary, in accordance with
23 this Act, that are contained in any management or
24 activity plan for the area completed before the date
25 of the enactment of this Act;

1 (6) may incorporate appropriate wildlife habitat
2 management plans or other plans prepared for the
3 land within or adjacent to the Recreation Area be-
4 fore the date of the enactment of this Act, in accord-
5 ance with this Act;

6 (7) may use information developed under any
7 studies of land within or adjacent to the Recreation
8 Area carried out before the date of enactment of this
9 Act; and

10 (8) may include cooperative agreements with
11 State or local government agencies to manage all or
12 a portion of the recreational activities within the
13 Recreation Area in accordance with an approved
14 management plan and the requirements of this Act.

15 (e) ACQUISITION OF PROPERTY.—

16 (1) IN GENERAL.—The Secretary may acquire
17 land adjacent to the National Recreation Area by
18 purchase from willing sellers, donation, or exchange.

19 (2) MANAGEMENT.—Any land acquired under
20 paragraph (1) shall be managed in accordance
21 with—

22 (A) the Federal Land Policy and Manage-
23 ment Act of 1976 (43 U.S.C. 1701 et seq.);

24 (B) this Act; and

1 (C) any other applicable law (including
2 regulations).

3 (3) IMPROVED ACCESS.—The Secretary may ac-
4 quire by purchase from willing sellers, donation, ex-
5 change, or easement, land, or interest in land to im-
6 prove public safety in providing access to the Recre-
7 ation Area.

8 (f) PRIVATE PROPERTY.—

9 (1) ACCESS TO PRIVATE PROPERTY.—

10 (A) IN GENERAL.—The Secretary shall
11 provide landowners adequate access to in-
12 holdings within the Recreation Area.

13 (B) INHOLDINGS.—For access purposes,
14 private land adjacent to the Recreation Area to
15 which there is no other practicable access ex-
16 cept through the Recreation Area shall be man-
17 aged as an inholding.

18 (2) USE OF PRIVATE PROPERTY.—Nothing in
19 this Act affects the ownership, management, or
20 other rights relating to any non-Federal land (in-
21 cluding any interest in any non-Federal land).

22 (3) BUFFER ZONES.—Nothing in this Act cre-
23 ates a protective perimeter or buffer zone around the
24 Recreation Area.

1 (4) VALID RIGHTS.—Nothing in this Act affects
2 any easements, rights-of-way, and other valid rights
3 in existence on the date of the enactment of this
4 Act.

5 (g) WATER RIGHT EXCLUSION.—Nothing in this
6 Act—

7 (1) shall constitute or be construed to con-
8 stitute either an express or implied reservation by
9 the United States of any water or water rights with
10 respect to the Recreation Area; or

11 (2) shall affect any water rights existing on the
12 date of the enactment of this Act.

13 (h) HUNTING AND FISHING.—Nothing in this Act—

14 (1) limits hunting or fishing; or

15 (2) affects the authority, jurisdiction, or respon-
16 sibility of the State to manage, control, or regulate
17 fish and resident wildlife under State law (including
18 regulations), including the regulation of hunting or
19 fishing on public land managed by the Bureau of
20 Land Management.

21 (i) MOTORIZED VEHICLES.—Except in cases in which
22 motorized vehicles are needed for administrative purposes
23 or to respond to an emergency, the use of motorized vehi-
24 cles on public land in the Recreation Area shall be per-

mitted only on roads, trails, and areas designated by the management plan for the use by motorized vehicles.

(j) GRAZING.—In the Recreation Area, the grazing of livestock in areas in which grazing is allowed as of the date of the enactment of this Act shall be allowed to continue, consistent with—

(1) this Act;

(2) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(3) any regulations promulgated by the Secretary, acting through the Director of the Bureau of Land Management.

(k) WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Recreation Area is withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patenting under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(l) FEES.—Amounts received by the Secretary under the fee structure required by subsection (c)(3)(G) shall be—

1 (1) deposited in a special account in the Treas-
2 ury of the United States; and

3 (2) made available until expended, without fur-
4 ther appropriation, to the Secretary for use in the
5 Recreation Area.

6 (m) RISK STANDARD.—The National Oil and Haz-
7 ardous Substances Pollution Contingency Plan (40 C.F.R.
8 300), published pursuant to section 105 of the Com-
9 prehensive Environmental Response, Compensation, and
10 Liability Act of 1980 (42 U.S.C. 9605), shall not apply
11 to the Secretary’s management of asbestos exposure risks
12 faced by the public when recreating within the Clear Creek
13 Recreation Area described in section 3(b).

14 **SEC. 5. JOAQUIN ROCKS WILDERNESS.**

15 In accordance with the Wilderness Act (16 U.S.C.
16 1131 et seq.), the approximately 21,000 acres of Federal
17 lands located in Fresno County and San Benito County,
18 California, and generally depicted on a map entitled “Pro-
19 posed Joaquin Rocks Wilderness” and dated April 16,
20 2013, is designated as wilderness and as a component of
21 the National Wilderness Preservation System and shall be
22 known as the “Joaquin Rocks Wilderness”.

1 **SEC. 6. CLEAR CREEK MANAGEMENT AREA WILD AND SCE-**
2 **NIC RIVERS.**

3 Section 3(a) of the Wild and Scenic Rivers Act (16
4 U.S.C. 1274(a)) is amended by adding at the end the fol-
5 lowing paragraphs:

6 “(____) LARIOUS CANYON.—The approximately
7 5.25 miles of Larious Canyon Creek from its source
8 near Idria Peak in Section 6, R12E, T18S, to the
9 boundary of the Clear Creek Special Recreation
10 Management Area in Section 23, R11E, T17S.

11 “(____) SAN CARLOS CREEK.—The approxi-
12 mately 5.51 miles of the East Fork San Carlos
13 Creek from its source near San Benito Mountain in
14 Section 10, R12E, T18S, to the boundary of the
15 Clear Creek Special Recreation Management Area in
16 Section 22, R12E, T17S.

17 “(____) CANTUA CREEK.—The approximately
18 7.68 miles of Cantua Creek from its source north of
19 Santa Rita Peak in Section 24, R12E, T18S, to the
20 public land boundary in Section 3, R13E, T18S.

21 “(____) PICACHO CREEK.—The approximately
22 2.65 miles of Picacho Creek, from its source spring
23 in Section 20, R12E, T18S, to its confluence with
24 the San Benito River.

25 “(____) WHITE CREEK AND TRIBUTARIES.—

1 “(A) The approximately 5.37 miles of
2 White Creek, from its source in Section 36,
3 R12E, T18S, to the boundary of the Clear
4 Creek Special Recreation Management Area in
5 Section 17, R13E, T19S.

6 “(B) The approximately 2.29 miles of the
7 unnamed tributary of White Creek from its
8 source just south of Spanish Lake in Section
9 29, R13E, T18S, to its confluence with White
10 Creek.

11 “(C) The approximately 2.45 miles of the
12 unnamed tributary of White Creek from its
13 source in Section 33, R13E, T18S, to its con-
14 fluence with White Creek.”.

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